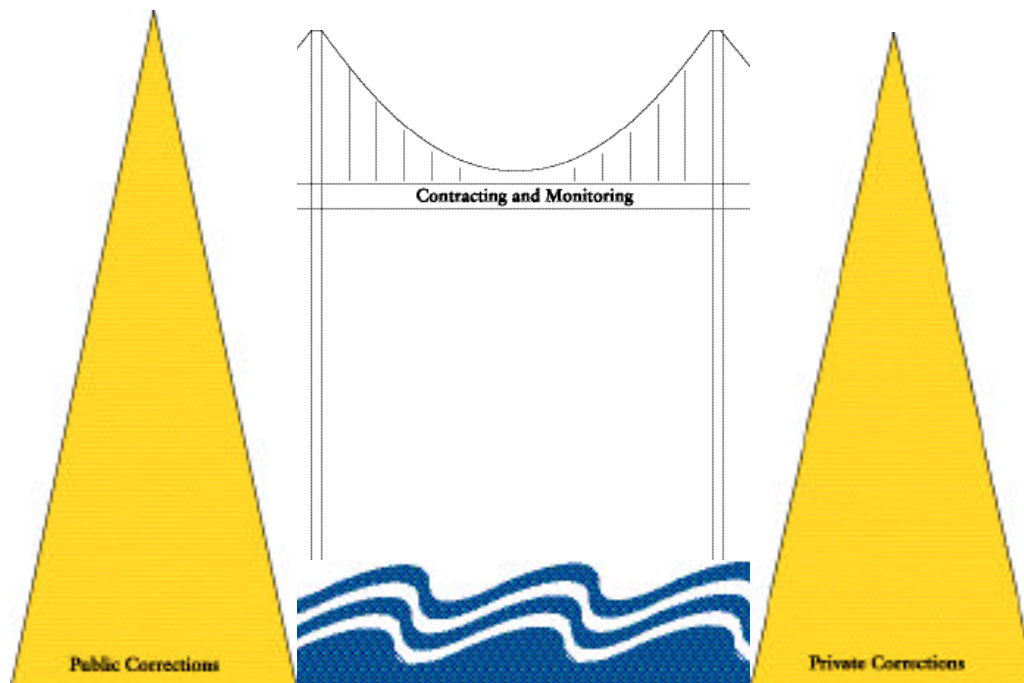


**MONITORING  
CORRECTIONAL SERVICES  
PROVIDED BY  
PRIVATE FIRMS**





**President**

*Ron Angelone*

**Vice President**

*Reginald Wilkinson*

**Treasurer**

*Terry Stewart*

**Midwest Representative**

*Kip Kautzky*

**Northeast Representative**

*John Gorczyk*

**Southern Representative**

*Michael W. Moore*

**Western Representative**

*Robert Perry*

**MONITORING  
CORRECTIONAL SERVICES  
PROVIDED BY  
PRIVATE FIRMS**

**Richard Crane**

*Author*

This project was accomplished with funding via a Cooperative Agreement (2000-CE-BX-K001) with the Corrections Program Office, Office of Justice Programs, United States Department of Justice. Points of view and opinions stated in this report are those of the Association of State Correctional Administrators and the author, and do not necessarily represent the official position or policies of the U.S. Department of Justice.

## **Acknowledgements**

James Saffle, Chair

ASCA Resource Committee on Privatization Issues

Great thanks to Larry Meachum, leading the Corrections Programs Office's demonstrated commitment to funding the Association's endeavors in the spirit of furthering the progress of the corrections' profession.

This project is the culmination of the endeavors of numerous members of ASCA, including Director Ron Angelone (Virginia), Executive Director John Suthers (Colorado), Director Kathy Hawk Sawyer (Federal Bureau of Prisons), former Director Jim Spalding (Idaho), Secretary Robert Perry (New Mexico), Commissioner Donal Campbell (Tennessee), and Executive Director Wayne Scott (Texas), members of the Resource Committee on Privatization Issues Sub-Committee. Considerable input and effort was also dedicated by Jerry Gasko (Deputy Director, Prison Operations, Colorado), Mike Janus (Administrator, Privatization and Special Projects Branch, Federal Bureau of Prisons), and Art Mosley (Texas), who represented their respective jurisdictions. Additional support from the following ASCA members was essential to the project's conception and success: former Director Bob Bayer (Nevada), former Director Cal Terhune (California), Director Kip Kautzky (Iowa), former Director Rick Day (Montana), Director Larry Norris (Arkansas), and Director Harold Clarke (Nebraska).

Many thanks to Richard Crane, who worked diligently to assimilate the ideas and experiences of correctional administrators into this final report of which we are all very proud.

The Executive Committee's ongoing support of the Resource Committee on Privatization Issues and its endorsement of this endeavor is greatly appreciated. Special mention must be made to Secretary Joseph Lehman, ASCA's President at the commencement of this project and to Director Ron Angelone, ASCA's current President, who were both very instrumental in ensuring the project's success.

The project's success also depended on the participation of ASCA's members and their staff, who provided detailed responses to the Committee's inquiries into their practices involving contracting for and monitoring correctional services with private firms. A number of states provided to us a large number of contracts, monitoring procedures and other information to be included in these manuals.

Additional thanks to ASCA's Executive Office and its staff, who under the leadership of Executive Directors George and Camille Camp facilitated and followed up on the many issues that arose during the course of the project. Leander Altifois served as ASCA's project manager and assisted the Committee throughout the project. John Blackmore aided in securing the awards, laid the groundwork for the project and served as an editor of the report. Judy Bisbee served as an assistant editor. Da-Gon Chen provided technical help to ensure that the report is available on both the ASCA website ([www.asca.net](http://www.asca.net)) and Corrections Program Office website ([www.ojp.usdoj.gov/cpo/](http://www.ojp.usdoj.gov/cpo/)).

## Table of Contents

|  |    |
|--|----|
| I. INTRODUCTION .....  | 1  |
| II. REASONS FOR MONITORING .....                             | 2  |
| III. SELECTING AND TRAINING MONITORS .....                   | 4  |
| Monitor Training .....                                       | 5  |
| Monitor Supervision/Support .....                            | 6  |
| Number of Monitors .....                                     | 7  |
| IV. THE MONITOR'S ROLE .....                                 | 9  |
| Monitoring Philosophies .....                                | 9  |
| Monitor's Role .....   | 9  |
| V. MONITOR'S DUTIES .....                                    | 11 |
| Overview .....   | 11 |
| Deciding which areas to monitor and which to eliminate. .... | 11 |
| VI. MEASURING COMPLIANCE .....                               | 13 |
| Review of Records and Reports .....                          | 13 |
| Direct Observation .....                                     | 14 |
| Inmate/Staff Interviews .....                                | 15 |
| Statistical Comparisons .....                                | 16 |
| Contractor's Quality Control .....                           | 17 |
| Contractor Staff Meetings .....                              | 17 |
| Specialized Auditing .....                                   | 17 |
| Investigating the Serious Incident .....                     | 18 |
| Unannounced Visits .....                                     | 18 |
| VII. MEASURING CONTRACT COMPLIANCE .....                     | 19 |
| Developing Monitoring Tools .....                            | 19 |
| VIII. COMPLIANCE REPORTS .....                               | 21 |
| What To Report .....   | 21 |
| IX. CORRECTIVE ACTION PLANS .....                            | 23 |
| X. CONCLUSION .....  | 24 |
| APPENDIX A .....   | 25 |
| APPENDIX B .....   | 27 |
| APPENDIX C .....   | 30 |
| ADDITIONAL APPENDICES .....                                  | 33 |

## I. INTRODUCTION

Should any reader wonder about the need for this manual, consider that the first contract for the full-scale operation of an adult correctional facility was awarded in 1984 by Hamilton County, Tennessee to Corrections Corporation of America. Despite numerous obstacles including the opposition of a number of powerful interest groups, by June 2000 there were 151 privately operated adult correctional facilities housing over 122,000 inmates. Consider that if government agencies are paying just \$30 per day for these beds, yearly payments to the private sector approach \$1.4 billion. Consider also that contracting to house inmates in private sector beds does not totally absolve government from its legal responsibilities both to the inmates and to the public. Surely, the need — not just for monitoring — but for highly effective monitoring, is clear.

Recognizing this need, the Association of State Correctional Administrators (ASCA) and the Corrections Program Office, Office of Justice Programs, U.S. Department of Justice have developed this manual to address the monitoring of contractually operated prison facilities, whether operated by a private company or by another governmental entity. For ease of reference only prison terms are used in this document. However, this manual should apply equally to contractually operated jails.

The manual considers monitoring in-state facilities and out-of-state facilities separately because surveys indicate that monitoring activities vary depending on the in-state or out-of-state context of the contract. Because of distance, cost and the short-term nature of most of these out-of-state contracts, less monitoring seems to be done at facilities.

The manual also addresses the monitoring of in-state facilities housing inmates from other jurisdictions. These contracts raise some additional and difficult issues: what legal authority exists to monitor these “speculative” facilities; what agency should be responsible for the monitoring; and how much monitoring should be done.

Also, a brief discussion of the monitoring of partial service contracts, such as health care and food services is included. These contracts are vastly different from full service contracts because the state has a twenty-four hour a day presence in the facility where the partial contractual services are being provided, limiting the need for extensive outside monitoring.

## II. REASONS FOR MONITORING

Ask corrections officials why their agencies monitor the operation of private prisons and one will get a variety of answers. More often than not the answer will be to insure that the contractor is providing services in accordance with the contract, state laws, rules, policies and procedures, and American Correctional Association (ACA) standards<sup>1</sup>. Other officials may say that monitoring is required by law.

But, in the final analysis, the most important reason for monitoring privately operated facilities is the same reason that state facilities should be monitored — to ensure the safety of the public, staff, and inmates. Some believe monitoring private contract facilities is more important because where profit is a motive, there is an incentive to cut corners and public safety could suffer. Budgetary concerns may be just as important at contract facilities operated by other public agencies. In either case, operators of such facilities should realize that cutting corners is at best a short-term strategy. If contractors wish to enjoy a long-term relationship with their client, it is important that they operate the facility in a safe and secure manner.

In addition to safety, monitoring is important to ensure that the contract requirements are being met. However, monitoring is an expensive resource, so it is wise to remember that not all contract provisions have equal weight and priority. Areas that are typically given the highest priority when it comes to monitoring include:

- Security Issues (e.g. use of force, escapes, classification, contraband)
- Life Safety Issues (e.g. fire prevention)
- Legal and Constitutional Requirements
- Medical and Mental Health Services
- Staffing
- Accounting (e.g. billings, inmate accounts)
- Records and Reports
- Classification
- Inmate Work
- Inmate Training (e.g. vocational, academic)
- Food Service

There may also be other areas where monitoring is important based on the local situation or to maintain credibility with various constituencies, such as the legislature, the public, or inmate families.

---

<sup>1</sup>Typically, this laundry list of requirements is not necessary, as the contract will require that all of the others be followed. Hence, reference to the contract includes all of the other documents.

Please reference William Collins' [Contracting for Correctional Services Provided by Private Firms](#).

These groups will each have particular interests and concerns about the private prison operation. Recognizing and monitoring those particular areas will give the department the information necessary to ensure these groups that their interests are being addressed.

Finally, monitoring is important to establish a case for renewing contracts, imposing financial sanctions, or terminating contracts. Should the department decide to terminate the contract or impose financial sanctions, there will be questions not only from the contractor, but also often from the contractor's supporters in the legislature and/or executive branches. Monitoring reports will provide the primary evidence in support of the department's position.



### III. SELECTING AND TRAINING MONITORS

In the early years of privatization, there were instances when contract monitors were selected for questionable reasons. In some jurisdictions, the monitor was the warden whose institution was now being operated by the private provider. As such, these individuals may have felt they had good reason to be anti-privatization, and worse, they may not have been objective in their assessments of the private provider. There were also instances of nepotism and conflicts of interest when, for instance, a son or daughter of a monitor obtained a lucrative position with the private corrections company. From those and other experiences, corrections has learned the critical importance of selecting the contract monitor for the right reasons.

Because the contract monitor role in corrections is so new, few states have a job description for such a position. Typically, states are using generic job descriptions that come closest to describing the experience they believe a monitor should have. For example, Texas uses a Program Specialist 3 job description as a base, and then adds additional selection criteria such as five years criminal justice experience with at least two years experience in technical review or program evaluation. Idaho uses a generic grants/contract officer job description, although the department is developing its own prison monitor job description. In Oklahoma, the department selects its monitors using the State's Administrative Assistant II job description, which requires a bachelor's degree in business, public administration, social science or communications and three years professional experience, none of which must be in corrections. Considering the variety of areas to be monitored, a good approach might be to select a candidate who is an experienced corrections generalist with a desire to learn.

In addition to experience, individuals selected as contract monitors need the right temperament. Some monitors have little interest in, or understanding of, their role, doing no more than wandering through the facility taking in the sights. These monitors may be favored by the contractor, but they do nothing to protect or further the state's interests. On the other hand, monitors who approach their jobs as all-knowing fault-finders are going to have considerable difficulty monitoring the facility. The contractor's employees will be unwilling to discuss problems or share concerns or documents with a monitor who can't wait to say "gotcha." It is only natural for a new monitor to feel that unless he finds something wrong, he is not doing his/her job. But, it is not fault-finding, but rather how problems identified are addressed that determine a monitor's success. If an individual has the ability to approach the monitoring job as a neutral fact-finder who, upon finding a problem, approaches it more as a mediator than as a gladiator, the monitoring process will be significantly more effective.

The successful monitor must also be a self-starter, as a supervisor is not usually on-site to give

assignments and push to have them completed. Because there are a large number of areas to be monitored, and at different intervals, the monitor must also be a good planner and organizer. He/she should also understand why the agency chose to award the contract was awarded and its long-term goals regarding private contracting. Finally, a good monitor should be understanding, patient, tactful, perceptive, foresighted, proactive, a good listener, and a good communicator, both verbally and in writing.

Another issue to consider when selecting a monitor is whether the department wants an individual who sees himself as an auditor or a contract analyst. In other words, should the monitor know how to conduct an audit or know how to analyze the contract? A contract specialist is more likely to draw fire from the representatives of the contractor and end up in an adversarial relationship as he/she argues various interpretations of contract provisions with facility managers. On the other hand, someone who focuses on facility monitoring will likely be less legalistic and more focused on the achievement of consensus.

It is also important to address the career path concerns of monitoring candidates. For example, because a monitor's position will normally have few, if any, direct promotion possibilities, the agency should make the benefits of monitoring experience clear. For instance, working as a monitor is excellent training for warden and deputy warden positions.

Finally, cultural differences, especially with out-of-state contracts, need to be considered. It may be helpful to have a monitor who can relate to urban inmates, Hispanic inmates, etc., if the inmates are being sent to a location where the inmates and staff have significant cultural differences.

Some states have hired outside contractors to serve as monitors. For instance, Alaska put out a request for proposals for the purpose of contracting for a monitor to oversee compliance at a privately operated facility in Florence, Arizona. While the contract is new, it is anticipated that the fees and travel expenses for the monitor (who lives in Washington state) will run about \$64,000 per year. This includes at least two trips to Alaska to brief the Director of Corrections. The Alaska Department of Corrections feels that given the distance from Arizona, a contract of this nature provides more thorough monitoring, the use of less staff time, and will cost the state less in the long run.

### ***Monitor Training***

Training for contract monitors has, in the past, consisted of little beyond handing over a copy of the contract with instructions that the monitors become "familiar" with it. This is beginning to change as agencies become more sophisticated about privatization and/or suffer the repercussions of poor monitoring. For example, the Bureau of Prisons is developing a program for its contract oversight specialists, which includes approximately eight months training in preparation to assume contract oversight

duties in the field. Actual development of contract monitoring skills comes through on-the-job training monitoring existing halfway house and jail contracts and through several formal training courses. These include: “Ethics in Federal Contracting,” “Administering a Performance-Based Contract,” and “Facility Safety.”

The National Institute of Corrections has also taken an interest in this area and has sponsored one workshop for existing monitors to improve their skills. The give and take among experienced monitors is invaluable, as well as providing the monitors with a sense of identity and a support group when needed. Because most states have opted for the ubiquitous “on the job” training and have yet to develop formal training programs, this manual includes a list of suggested topics for the training of a neophyte contract monitor. (See Appendix A) One very effective form of training is to select the monitor or a number of monitor candidates prior to issuance of a request for proposals. Involving the monitor-designees in the RFP and contract development process will give them a better understanding of what the department's requirements are for the private contractor.

One area of training requiring special mention is fraternization between the monitor and the prison staff. This is difficult to prevent, especially when the facility is in a small community. For this reason, monitors must have a highly refined sense of ethics as situations will routinely arise that could place their impartiality in question. Should a monitor give in to these temptations, he/she will lose their effectiveness, possibly their job, and perhaps their freedom.

The monitor should also be counselled to avoid assuming the role of inmate ombudsman by taking on individual inmate complaints and attempting to resolve them and/or using them as the basis for identifying facility problems. Those monitors who adopt this role usually believe that the inmates are more trustworthy than the private contractor's staff. This is not a viable method for determining whether the institution is being properly run. Likewise, developing inmate informants to provide information on the contractor is not a professional way in which to monitor facility operations. As set forth in Section VI below, there are a variety of compliance measures that are more effective.

### ***Monitor Supervision/Support***

Once a monitor's qualifications, pay, training, and role have been determined, the next question is designating who is going to supervise this individual. To whom the monitor reports goes a long way toward establishing the monitor's authority. Furthermore, the monitor must be empowered to do his/her job. Therefore, monitors should be supervised by and report to individuals high in the chain of command if the agency wishes to convey to the contractor the importance with which they view the monitor's responsibilities.

The monitor should require little supervision, as he/she will usually be operating independently much of the time. Monitoring reports may be the only insight into whether he/she is doing the job properly. To be certain the monitor is working diligently, benchmarks should be developed to ensure that the monitor is out in the field performing direct monitoring tasks rather than sitting around the office. Requiring monitors to complete a certain number of monitoring tasks on a weekly or monthly basis is one method of accomplishing this.

### ***Number of Monitors***

A number of issues must be addressed to determine how many monitors a facility might need. First, the role of the monitor must be defined and operationalized. Second, the size of the facility must be considered. Some jurisdictions have as few as 0.3 monitors for every 500 prisoners, while others, such as Colorado, have as many as 2. However, the average seems to be about one monitor for every 500 inmates<sup>2</sup>. Fewer full time monitors might be needed if visiting specialists audit areas such as medical care, food service, and accounting<sup>3</sup>. The number may vary depending on other factors such as the age of the facility, the type of inmates, the monitoring methods being used and the extent of administrative duties handled by the monitor. These administrative responsibilities can be time consuming duties and include, among other things: sentence computation, approval of disciplinary, classification actions, transfers, and contacts with the public.

Another consideration is whether full or part time monitors will be used. There is something to be said for both. An on-site monitor can certainly keep a closer eye on things, demand higher accountability, become familiar to staff and inmates, and observe subtle changes within the facility. This makes it more likely that problems will be identified before they become serious. Also, a regularly present monitor keeps the contractor's staff on their toes. Additionally, if there is a serious problem, the on-site monitor is available to provide information to the agency. Furthermore, it is usually necessary for an agency employee to be on-site to handle matters that cannot be delegated to the private sector (i.e. award and loss of good time, changes in classification, and some disciplinary and segregation decisions). At least one state, Tennessee, has both an on-site monitor and an on-site "Commissioner's Designee" who handles these ministerial duties at facilities housing 1500 and 2000 inmates.

On the other hand, corrections administrators often express concern about the cost of on-site monitoring. However, if the contracting process is done correctly, the expense of monitoring should be factored into the total cost of privatization to determine whether it is less expensive than public operation.

---

<sup>2</sup>A survey of private companies indicated that they felt .5 to 1 monitor per 500 was adequate.

<sup>3</sup>While no monitor will be an expert in every area of prison operation, appropriate monitoring instruments may sometimes alleviate the need for specialty monitors.

The second concern, discussed previously, is the possibility that the monitor will over-identify with prison staff. The opposite of that is concern that the monitor will identify with the inmates, resulting in over zealous monitoring or transformation into an inmates' advocate.

These problems can be addressed in several different ways. First, the monitoring function should be as objective as possible, so that the monitor's ability to skew his/her observations in favor of the private company or the inmates is limited. Second, some states have found that having more than one monitor on-site or having an on-site monitor whose office is somewhat removed from the prison (across the street, for example) helps keep the monitor from becoming too close to the facility staff. Third, visits to the facility by the monitor's supervisor can serve to identify problems. Last, rotation of monitors in and out of the facilities can prevent the monitor from being co-opted by the private company or the inmates.

Rotating individuals in and out of the monitor's position can address a number of problems, including monitor burnout. This may occur most frequently when a monitor is detailed to an out-of-state facility. Living in a new environment without old friends and, in effect, being on duty 24 hours a day can overwhelm the strongest individual. If the monitor knows that an assignment is for a fixed duration, that may be easier to cope with than if he/she feels he/she has been exiled to a foreign land and a dead-end job.

There may be a negative side to rotation in the loss of experience each time a monitor is replaced. This can be mitigated by providing for overlap between the monitor leaving the facility and the replacement. Also, more frequent supervisory visits during the early months of a monitor's appointment can be helpful.

## IV. THE MONITOR'S ROLE

### *Monitoring Philosophies*

Every agency must determine its philosophy on contract monitoring. This can mean, on one end of the spectrum, doing everything possible to ensure the success of the contract or, on the other, proving that prison privatization is a mistake. However, a philosophy based on neutral fact-finding is most likely to generate "win-win" results for the agency and the contractor. Given that the term of most contracts will be for a minimum of three to five years, it is usually better to consider the agency and the private contractor as partners, rather than enemies. This approach should ensure a better relationship and will also make it easier to identify and address contract problems.

### *Monitor's Role*

The first issue to be addressed when considering the monitor's responsibilities is whether he/she should serve as the point of contact between the contractor and the department. The answer is most assuredly yes. Private companies may attempt to circumvent the monitor in order to undermine the monitor's position and steer a higher-ranking official in the direction the contractor would like to go. However, in response to an ASCA survey, one company commented, "everyone from the Department should go through the monitor." Another responded that, "the monitor should be the primary liaison between the Facility Administrator and the state . . ." It is in the department's best interest to ensure that the monitor is the contractor's point of contact and that all contract and monitoring issues are discussed with the monitor before taking them up with department management. Further, before addressing any issue brought to management by a contractor, management should seek input from the monitor. The monitor's authority within the facility could otherwise be seriously compromised.

Another basic issue is the monitor's authority when a problem is discovered. The range of possible approaches include:

- referring the problem to the contractor for a solution,
- suggesting solutions to the contractor,
- negotiating with the contractor to arrive at a solution,
- dictating a solution to the contractor, or
- notifying the agency that the problem exists and recommending whether penalties should be assessed or the company placed in default.

The last is an arrow that the monitor should have in his quiver, but it is not one that should be

used hastily. Typically, the monitor's most effective approach is raising the issue with the facility administrator and allowing him/her to propose a solution. The four contractors responding to the ASCA survey all felt that the monitor should be involved in developing solutions to problems that arise. This is a healthy approach. If contract issues need to be resolved at a higher level, the monitor should seek to submit them jointly with the facility administrator. But, allowing a monitor to dictate solutions to the warden will create an unhealthy relationship between the two and could subject the department to liability if the solution fails.

The committee recommended that you address problem resolution, i.e. problems between the on-site monitor and the private provider; what is the process, what are the steps for resolution? For example, if you agree to disagree, then you move to the next predetermined level as agreed to by both parties.

## V. MONITOR'S DUTIES

### *Overview*

How extensive a monitoring program may be is as varied as there are states with monitoring programs. On the one hand, one jurisdiction goes so far as to monitor whether the contractor has acquired supplies or services from Cuba or Iraq. On the other, some agencies monitor only those areas that are important to the accomplishment of the contract and vital to the facility's operation.

There is also the question of cost. Oklahoma has an on-site monitor, a 2 to 4 person team conducting quarterly audits, and a yearly audit utilizing up to ten employees. It also has a privatization prison administrator. Its estimate of the yearly cost for a monitoring effort of this size is \$100,000 per facility. This level of monitoring may be very effective, but is it cost effective? If the purpose of monitoring is to ensure contract compliance, it would seem that a well-trained on-site monitor, with a good set of checklists would be sufficient. If, on the other hand, the quarterly and yearly audits are for the purpose of subjecting the private facilities to the same level of auditing done at state operated facilities, then their use would be justified.

Under no condition should the private contractor pay the contract monitor. Such a situation creates a serious conflict of interest. However, the cost of monitoring should be included when determining whether the private sector can operate prisons less expensively than the public sector. In order to provide an accurate comparison, monitoring costs, along with other indirect costs of privatization outside the scope of this manual, should be included in calculating the cost of prison privatization.

In determining the extent of their monitoring effort, states should recognize that both the monitor and prison staff have limited time. A constant influx of people to inspect the facility will prevent facility administrators from addressing other important areas. In a similar vein, corrections officials may recall having such a large number of interview requests from the press, that little time was left to address the issues or concerns that generated the press interest in the first place.

### *Deciding which areas to monitor and which to eliminate.*

In determining the important areas for monitoring, it is suggested that the following be given high priority:

1. Key trouble indicators, such as escapes, increases in violence, serious illnesses (e.g. AIDS, TB, and hepatitis), staff inexperience, poor staff training, staff turnover, staff disciplinary infractions, inmate idleness, poor inmate/staff relations, and evidence of drug trafficking.



2. Major violations of key contract provisions, such as sanitation, fire safety, the inmate grievance system, preventative maintenance, and drug testing of inmates and employees.
3. Life safety areas including fire prevention, natural disasters, and suicide prevention.
4. Litigation generating areas such as: medical and mental health care, access to the courts, inmate disciplinary procedures, inmate searches, inmate property, classification procedures, isolation and segregation, use of force, and use of chemical agents.

There are, of course, other aspects of prison operations that could legitimately be included in these sections, and some other were listed that might rightly be placed in different categories. But the point is to give serious thought to identifying those areas that are most important so that the monitor's time can be appropriately directed.

Issues that might be monitored less frequently might include recreation, library or commissary usage, and laundry. However, any of these could move up in priority based on an unusual number of grievances in those areas<sup>4</sup>. If inmates have no complaints about access to the library or commissary, it does not make a lot of sense to monitor these on a routine basis when there are more important issues to be addressed.

Also, some issues may be adequately monitored by outside agencies or even the private company operating the facility. For instance, kitchen sanitation may be monitored by both state and local health officials. It makes little sense for a corrections layperson to also monitor this area if the professionals find that the kitchen sanitation is adequate. The same may be true of certain aspects of fire safety which are monitored by the state and local fire marshal's offices. This is not to suggest that monitoring of food service or fire safety should not take place, but it might be reduced in scope depending on the extent of outside agency review.

If the above criteria are not kept in focus, then information gathered by the monitor may prove to be both useless and a waste of the monitor's valuable time.

---

<sup>4</sup>By calculating the number and type of grievances filed each month the monitor can determine whether inmate anxiety about a particular issue has increased significantly from previous months.

## VI. MEASURING COMPLIANCE

Once the areas to be monitored have been identified, the most difficult aspect of monitoring begins — how is compliance going to be measured? Two viable methods of monitoring are measuring operations (e.g. how many inmates are in GED classes) or measuring results (e.g. how many inmates received their GED in the last quarter). An agency should decide before monitoring begins — indeed before the contract is negotiated — which approach it will use or if it will use a combination. In every case, a good monitoring plan measures whether the contractor is operating at an acceptable level -- and not being held to an unobtainable “perfect” level.

Some states use a statistical methodology, finding acceptable various aspects of the contractor’s performance if they met a particular performance standard – if they are, for example, 80% in compliance with a given standard. While this methodology also has merit, the question to be answered is whether the performance standard is an arbitrary percentage, or whether it is tied to the jurisdiction’s own facilities. Used appropriately, the performance standard method provides the most objective analysis of a facility’s operation. Some agencies believe that the acceptable level of compliance should be kept confidential, so that the contractor will be motivated to achieve total compliance. Others believe this is inappropriate.

In measuring compliance, most states use a variety of tools in their monitoring efforts. These usually include review of contractor reports and files, direct observation, discussions with managers, inmate/staff interviews, and use of monitoring checklists. Fewer states, but still a goodly number, use comparison with other facilities, for example comparing the number of escapes at the private facility with those at a similar state facility.

### ***Review of Records and Reports***

Although there are a number of monitoring methods, does not mean each is equally effective in a given situation. The method used must be properly focused and able to cull needed information to be useful. If record reviews focus only on whether the report was completed properly, for instance, and not on the information contained therein, they will reveal little about the facility's operation. Reports should be reviewed, not as isolated documents, but as part of a whole. An isolated review of incident reports might show that each report was completed properly, but when viewed as a whole, the reports could reveal much about the facility, as this vignette shows:

Reports of emergency response team members showed that the team was called when a partially paralyzed inmate refused to be placed in a wheelchair to be taken to the infirmary for

“observation.” The emergency response team’s reports indicated that the inmate was held down, placed in restraints, and transported to the infirmary. The reports were apparently written from each officer’s perspective. However, each indicated the incident occurred at exactly 11:00 a.m. Each was silent on the subject of injuries.

On the other hand, the facility nurse’s report stated that the inmate arrived at the infirmary at 10:40 a.m. in a semi-conscious condition and that he was transferred to the hospital emergency room for sutures. An after action report by the chief of security failed to note that the inmate’s injuries were not documented on the emergency team’s reports and that non-physical means (e.g. verbal intervention, show of force) were not tried first as required by policy before using force. The Security Chief also did not question at all the need to move the inmate for “observation” or whether the nurse was contacted before force was used.

On the surface, the reports were well written, but by reading them critically and as a whole, the monitor could learn that the officers involved needed training on the facility’s use of force policy and in report writing, and that the chief of security needed training in after action investigation techniques. The reports also indicated that further investigation was needed into the incident to determine how the inmate came to be semi-conscious and in need of stitches, and why this information was not reflected on the security officers’ reports.

This vignette also illustrates that some records may be adequate monitoring tools for some purposes, but not others. For instance, had the monitor reviewed the officer’s training records, he/she would have found that each received appropriate use of force and report writing training. However, only by reviewing the incident reports (or actually viewing the incident) could he/she learn that the training was inadequate or that the officers were in need of refresher training.

### ***Direct Observation***

The next type of monitoring is the facility walk through for the purpose of directly observing operations. This method is favored by some states<sup>5</sup>. Getting useful information by a walk through the prison normally depends on the experience of the person conducting the walk through. Also, luck often plays a role. If the contractor is lucky, no problems will be visible. If unlucky, then problems may be easy to spot. Also, if the monitor has no specific agenda, he/she may look for the same things every time he/she walks through the facility. For instance, the monitor may focus on sanitation problems and ignore security issues; or he/she may focus on security issues, but only as they relate to escapes.

---

<sup>5</sup>Arkansas, Nebraska, North Dakota, Utah, and Washington find this to be the single most effective monitoring tool. Only Missouri reported that this technique was not beneficial.

While visual inspections have their place, they can promote a passive attitude in the monitor; in other words, the monitor may feel he/she is only taking in the sights with no mandate to look beyond the surface for hidden problems. To counter this, the monitor should utilize checklists pertinent to the walk-through areas. For example, an inspection of the housing units might include a determination that all security posts are manned and a review of log books to determine whether they are being kept properly. This might also be a good time to accompany a security officer on his rounds through a cell-block or dormitory. By accompanying several officers over a period of time the monitor can also learn whether the officers are being uniformly trained<sup>6</sup>.

It is not necessary to complete an entire monitoring checklist on each walk-through, however. A particular checklist could be “in progress” over a period of days or weeks, with each walk-through focusing on different parts of the list.

### ***Inmate/Staff Interviews***

Interviews with inmates and staff are usually the least effective means of monitoring a facility. Interviews may be very helpful in investigating specific incidents, but questions to inmates as to “how are things going?” will generally only encourage them to air whatever grievance come first to mind. While a pattern of inmate complaints might suggest a problem needing further exploration, individual complaints are usually not viable evidence that a problem exists. The monitor should refer inmate complaints to the inmate grievance system for resolution. If the inmate has already filed a formal grievance regarding the matter, then his statement may be given some credibility, although the grievance system ought to be allowed to work.

Monitors should be particularly wary of inmates housed in out-of-state facilities as they more often will use the monitor to manipulate the situation to their advantage. In dealing with inmate complaints, the monitor should ask two questions: has the inmate filed a grievance and would a similar complaint result in outside interference/action if lodged against a state facility?

Interviewing line staff can be a useful monitoring tool. However, some staff may be nervous that saying the wrong thing will get them in trouble with their employer and shade their answers accordingly.

---

<sup>6</sup>One officer might see the inspection as dealing with maintenance and sanitation and another with contraband detection and escape prevention. While all these are necessary, the post orders should make clear which type of inspection is to be performed at which times.

Therefore, caution should be used in weighing staff responses. Also, quizzing line staff about their failure to follow a certain policy, outside a formal investigation, may embarrass them or anger their supervisors. Such failures can be documented in other ways and then passed on to facility managers to address. Discussion with management level employees should be a more productive vehicle for determining compliance, however<sup>7</sup>.

### ***Statistical Comparisons***

One of the most effective techniques for determining how well a facility is being run is comparison of the private facility to a similar public facility<sup>8</sup>. In fact, without such comparisons it is often difficult to know whether the private facility is operating poorly, or is simply experiencing the same extent of problems as a public facility<sup>9</sup>. For example, it is an interesting sociological phenomenon that escapes from private facilities generate considerably more publicity than escapes from their publicly operated counterparts. This increased publicity can cause the most fair-minded administrator to believe that the private facility is not providing proper security. But, without a statistical comparison it is impossible to objectively determine this.

Statistical comparisons can provide insight into how the prison is operating in a number of areas. These include inmate disciplinary problems (or specific types of misconduct); seizure of contraband; employee turnover; inmate grievances (or certain types of grievances); positive urine screens for inmates and employees; use of force incidents; inmate on inmate assaults; and inmate on staff assaults.

The comparison method should not be viewed as a "which is better, public or private?" determinant. Rather, comparison with other facilities should serve as a benchmark, which can put data obtained by the monitor into perspective. For example, if a 500-bed medium security public facility has an average of 1.0 escapes a quarter and a similar private facility averages 1.2 escapes each quarter, the private facility would seem to have an acceptable escape ratio. But, without the comparison one would not be able to make this judgment objectively and would be left with subjective statements, i.e. the number of escapes "seems" high.

The most difficult problem with this method is in finding comparable facilities. Like fingerprints, no two prisons are exactly alike. Issues to be considered in selecting comparable facilities include: size, inmate classification, location (urban, rural), age of facility, and facility policies. In making the selection, it may be necessary to use a facility in another state to obtain the best comparison.

---

<sup>7</sup>The Delaware Department of Corrections finds that discussions with management and audit checklist are the two most beneficial elements of its monitoring efforts.

<sup>8</sup>Of the twenty states responding to the ASCA survey, fifteen used this technique.

<sup>9</sup>The Tennessee Department of Correction reports that the comparison method gives them insight into problems which would not be apparent from day-to-day monitoring.

### ***Contractor's Quality Control***

Some jurisdictions, notably the Bureau of Prisons, require that the contractor do its own quality control.<sup>10</sup> The agency's monitor then reviews the contractor's records to determine whether the quality control is being done, problems have been identified and corrections made. This methodology can be effective, but it may also be too cumbersome to be workable. Certainly, a second level of review can help if done properly, but this also adds another level of bureaucracy. Additionally, time can be wasted distinguishing what constitutes quality control (what's done by the contractor) and what constitutes quality review or assurance (what's done by the monitor.)<sup>11</sup> This method also requires a high level of trust in the contractor because it is through its quality control program that problems will be identified. If the contractor misses or fails to properly check an area, this is not likely to come to the monitor's attention until a serious problem surfaces.<sup>12</sup>

### ***Contractor Staff Meetings***

Another way in which to measure contract compliance is by attending meetings of the contractor's employees. In general, this is not a very effective way of identifying problems, but it may be worthwhile in gauging the mood of the staff and the rapport between the facility administrator and his subordinates.

### ***Specialized Auditing***

Many states utilize persons with expertise in particular areas (e.g. security, intelligence, financial evaluation, medical care) to provide assistance to the on-site monitor in these more technical areas. Some states even assemble special audit teams who descend on a facility en masse for a top to bottom review. These specialists can be of particular help in areas that do not lend themselves to a checklist type of review. (e.g. to determine whether staffing is insufficient, or whether staff is appropriately placed and deployed). However, some matters put off for specialist review can be conducted by the on-site monitor employing a well-developed monitoring instrument. Given the cost of the specialist's time, it might be best to utilize specialists in the early stages of the contract. Then, based on their knowledge of the facility, the specialists can develop monitoring methods for the on-site monitor to use. This may reduce, but not eliminate, the need for specialists in some areas.

---

<sup>10</sup>One contractor also suggested this approach noting that leaving monitoring to the state could mean the contractor did not learn of problems until notified by the monitor.

<sup>11</sup>This is reminiscent of the "is this a policy or is it a procedure" problem which corrections has wrestled with for years.

<sup>12</sup>The BOP has financial incentives to encourage good quality control.

Specialized monitoring is also important when a facility has a partial privatization contract, for instance, for health care or food services. These contracts present different problems because there is a tendency to rely on the on-site facility administrators to observe and report contract problems. Unfortunately, this type of "monitoring" is usually informal in the extreme. Generally, the only monitoring method utilized is the unstructured walk-through and the anecdotal reports of staff members. Neither of these will produce the kind of documentation necessary to determine the effectiveness of the contract or get the contractor's attention. Nevertheless, this information should still be gathered as it can be helpful in giving direction to a specialized monitor who should be scheduled to audit the contract on a regular basis.

### ***Investigating the Serious Incident***

Most states do not use their regular on-site monitor when there is a serious incident at the facility such as a stabbing or a mass escape. The practice seems to be to bring in security or administrative specialists to conduct the investigation. These investigations will almost always involve record review and interviews. Therefore, whoever is assigned to do the investigation should have the following skills:

#### *Ability to:*

- Review records,
- conducting investigative interviews,
- recreating the scene,
- judging witness credibility,
- report writing, and
- coordinate efforts with local law enforcement

Because these are competencies that the contract monitor should have in any case, it may be better to assign the monitor to conduct these investigations in partnership with a specialist.

### ***Unannounced Visits***

Some states believe that unannounced audits are beneficial to the monitoring process. The usual course is to advise the company of the monitor's schedule and the purpose of the visit so that the necessary staff and records can be available. There may be occasions, however, when an unannounced inspection might be needed to review the facility or even the monitor. In such a case, the inspection should be handled in the same manner as the department handles similar unannounced inspections of its own facilities, so as not to unnecessarily generate ill-will. In every case, both entrance and exit interviews should be conducted.

## VII. MEASURING CONTRACT COMPLIANCE

### *Developing Monitoring Tools*

Although this manual addresses seven monitoring methods, the most useful is the checklist.<sup>13</sup> Checklist development is very difficult as it requires innovative thinking to get from a contractual requirement that the operator “provide a safe and secure environment for staff and inmates” to documents which will measure this broad requirement. The first step is deciding what areas of the facility operation should be inspected to determine that “a safe and secure environment” exists. The next step is to determine what within these areas ought to be measured. The final step is to decide how to effectively measure these operational areas.

Whether the contractor is maintaining an adequate staffing level can, for example, be measured in a number of ways. The monitor can tour the facility and determine whether there are any vacant positions; he/she can review records to determine if there is a significant number of assaults, suicides and/or escapes from the facility; or he/she can review personnel records. Two of these methods require knowing what staffing level the contractor is required to maintain. This information should be obtained during the RFP and contract negotiation process; pointing out the necessity of thinking about monitoring at the earliest stages of the contracting process.

When developing checklists it is important to focus on what is to be accomplished. For instance, a checklist that reviews classification appeal forms to determine that the right person signed off on them is not nearly as helpful as a checklist that determines whether an appeal was granted or denied. Likewise, reviewing the facility's lesson plan to see whether the subject matter is pertinent does not reveal much about the operation of the facility. The better approach is to determine whether the training was effective based on the number of problems in the classification area. Likewise, while seeming helpful on the surface, reviewing drug testing records to determine if the correct percentage of inmates was tested may not be as meaningful as comparing the number of positives with those in past months or with other facilities.

Another area that deserves attention is an examination of the contractor's policies and procedures. Typically, these will have been written and approved by the department prior to opening of the facility.

Therefore, monitoring that focuses, month after month, on whether the contractor has written policies governing a long list of issues are generally a waste of time. However, determining whether the

---

<sup>13</sup>Tennessee, for example, monitors approximately 83 functional areas and of these approximately 65 are monitored using monitoring instruments.



policies are being followed is of great importance. The best way to determine this is to use the contractor's policy to develop a checklist that is in turn used to measure the contractor's compliance with the policy. This may involve a review of facility records, observation of facility operations, or both (See Appendix B and C). This will more effectively reveal if the policy is being followed, needs to be changed, or whether additional training is needed. Because easier to monitor, a monitor's time is often squandered reviewing policies which have already been approved or, in particularly egregious cases, determining on a monthly basis that the institution has a control center, a depository for firearms or a visiting room. This is particularly wasteful when the facility has been built by the public sector to their specifications.

Often there will be very specific instructions for the monitor to see that some unusual event, such as a fire drill, is carried out correctly. However, it is the rare state that instructs the monitor to see that fire drills (or anything else) are properly conducted during the third shift.

Other typical problems include instructing the monitor to "routinely review" certain documents. This leaves two questions unanswered: what is the monitor reviewing for and how often is "routinely?" Often the former is left unanswered because the individual writing the checklist does not have a clear understanding of what is to be accomplished. For example, what purpose is served by requiring the monitor to routinely review "all" laboratory request forms to determine whether the form contains the following: full name of inmate/patient, inmate number, name of requester, name and address of the institution, test required, date and time collected, date and time specimen reached lab, urgency of testing (STAT, routine, etc.), patient status (in-patient, etc.), source of specimen, and signature of the individual reporting or performing the test.

A review of a few such lab request forms might be worthwhile to determine if the forms are appropriate and are being correctly filled out. But, a review of lab request forms could be better used to measure the medical care delivery system. For example, information on the form could be gathered to determine how much time elapsed between collection of the specimen, return of the test results to the facility, and the inmate being advised of the results and treated.

Appendix B and C provide examples of two useful checklists. No monitoring instrument is going to be right for every contract, however. Nor is an agency going to develop exactly the right tools on the first try. The monitor and those who review the monitor's reports are in the best position to determine whether a monitoring form or method is accomplishing its purpose.

## VIII. COMPLIANCE REPORTS

### *What to Report*

Many states report not just serious failures by the contractor, but all failures. In a survey of sixteen jurisdictions, twelve indicated that their monitors would report every problem they encountered in the course of their duties. The other four indicated that only serious problems would be reported.<sup>14</sup>

The tendency of agencies to require the reporting of all problems encountered by their contract monitors might indicate a lack of confidence in the monitor, a desire to catch the private contractor at every turn, or an inability to articulate which issues are most important. Reporting every problem may be holding the contractor to a much higher standard than the state's own facilities. No facility will be perfect all the time and to put a facility on report for issues that would not even generate a passing glance at a public facility can cause serious conflict between the contractor and the agency. The better course is to recognize that the contractor is not a perfect manager and, as with public facilities, unforeseen and uncontrollable problems will occur. However, even unreported problems should be documented internally, so that patterns, deterioration, or improvements can be noted.

But, no matter which approach is adopted, it is still necessary to define what constitutes a “problem.” For example, in reviewing whether the fire alarms were in working order, failure of a fire alarm would certainly qualify as a problem. On the other hand, if an examination of the visitors’ log indicated that two visitors out of 100 had not legibly signed their names, would this be a “problem” which needed to be reported under any reporting system?

Agencies requiring that only serious deficiencies be reported, usually report problems that are:

- important to the mission or to a vital function of the facility or to a facility program,
- pervasive, including a pattern of small related discrepancies,
- an indication of fraud, waste, abuse or illegal acts,
- outside the allowable deviation for the particular area (e.g. 80% of intake physicals will be done within 24 hours),
- financially significant, or
- could become serious if not addressed.

In every case, it is essential that the monitor's report identify the problem and sufficient,<sup>15</sup>

---

<sup>14</sup>BOP, Delaware, Kansas, West Virginia.

<sup>15</sup>Enough evidence to lead a knowledgeable and reasonable person who is not an expert in the area to the same conclusion as the monitor.

reliable,<sup>16</sup> and relevant<sup>17</sup> evidence to support his/her findings. The report must be sufficiently detailed so that the extent of the problem can be gauged. For example, a statement that "the present policy needs to be revised" is insufficient because it does not identify the portion of the policy needing revision. The report should also clearly articulate the reason the problem is being noted. For example, does the policy need to be revised because it does not conform to the practice, because it is unclear, because it is unworkable, because it conflicts with other policies, or for another reason?

Also, the report should indicate the cause of the problem (e.g. lack of training, high turnover, poor procedures) and identify noteworthy accomplishments, such as significant solutions or progress toward dealing with past problems, and noteworthy program ideas. Stylistically, the report should be fair, accurate and avoid exaggeration. Further, the report should be clear and concise and credit should be given for efforts already begun by the contractor. To facilitate review, headings should be used (e.g. Tool Control) for each problem area.

Reports should be prepared routinely, such as on a monthly basis. This will facilitate a determination of whether things are getting better or worse. However, when a deficiency is uncovered that cannot wait until the next regularly scheduled report, a special report should be prepared. Some thought should be given regarding distribution of the monitor's reports because these reports are usually subject to the states' public records laws and would be available to anyone requesting them.<sup>18</sup>

---

<sup>16</sup>Trustworthy, worthy of confidence.

<sup>17</sup>Evidence tending to establish the facts at issue.

<sup>18</sup>Confirmed by officials in Idaho, Louisiana, and Tennessee. It was noted that under Idaho law, certain security related information could be removed from the report.

## IX. CORRECTIVE ACTION PLANS

Once a problem has been identified, the question is who should take the first step towards correcting it? To foster a good working relationship once the problem has been identified, the contractor should have the first opportunity to identify steps, sub-steps and a timeline for the entire process. The plan should then be submitted to the monitor or to another person designated by the director for approval. Once the plan is approved, the monitor should be aware of the timetable for the completion of the steps toward resolving the problem and re-audit accordingly.

Performance penalties<sup>19</sup>, liquidated damages or payment adjustments are finding their way into more private management contracts. Eleven states responding to the ASCA survey indicated that they permit their monitors to recommend assessment of such penalties against the contractor. Use of these payment adjustments can be useful when the operator is recalcitrant in providing or implementing a corrective action plan. But, to be used, the operating contract must spell out under what circumstances and at what point money may be withheld from the operator. The usual procedure calls for the operator to be cited in writing for a breach of the contract and given a specified number of days to cure the breach. If the breach is not cured in a timely manner, liquidated damages can commence on the date the cure period expires. However, if the operator's management team concealed or misled the state concerning the breach, the liquidated damages may commence on the date of the breach.

The ultimate form of corrective action is termination of the contract. The typical contract provisions for termination follow those for damages, but rather than collecting damages at the end of the cure period, the contract is terminated. Additionally, almost all contracts provide for termination "for convenience of the state." Termination is a drastic means of remedying contract problems given the administrative costs associated with letting a new contract or taking over the prison. so, except in the most unusual circumstances, should be used only after all other measures have been tried.

---

<sup>19</sup>Also referred to as fines, liquidated damages, and payment adjustments.

## **X. CONCLUSION**

Many believe that the main purpose of monitoring is to ensure that the state's money is being legally spent. But, crooked business operations are relatively easy to uncover. The monitor's most difficult job is spotting the honest business that is ineffective in ensuring public, staff, and inmate safety. It is for this reason that monitor training and the development of effective evaluation techniques must be addressed. Likewise, it is important to identify and give the highest priority to monitoring the most significant operational areas, rather than treating all contract issues the same.

Until recently, monitoring has been an afterthought in the privatization process. Fortunately, recognition of the importance of monitoring is growing as evidenced by the interest of ASCA and the Corrections Programs Office of the Department of Justice in publishing this manual. Likewise, many agencies have made great strides in the development of effective monitoring techniques and they have graciously shared them in connection with the development of this publication. Hopefully, this manual will further awareness of the need for good selection, training, monitoring and reporting techniques and provide direction toward those goals.

## APPENDIX A

### ***MODEL TRAINING TOPICS***

1. Rules of contract interpretation
2. Accessing and interpreting other sources of responsibilities  
(e.g. ACA Standards, Fire Code)
3. Agency's monitoring philosophy/Chain of command issues
4. Ethics and Conflict of Interest Issues
  - a. Fraternization
  - b. Use of confidential informants
5. Monitoring tools
  - a. Culling information from reports, files, invoices, etc.
  - b. Using direct observation
  - c. The value and danger of inmate and staff interviews
  - d. Statistical analysis (e.g. turnover rates, number of grievances, etc.)
  - e. Developing audit checklists
6. Specific audits versus shotgun approach
  - a. Developing a monitoring plan
  - b. Establishing priorities
7. Monitoring in the least disruptive manner
8. Utilizing specialized assistance -- e.g. medical, security, legal personnel
9. How to analyze data
10. Establishing proof of a violation
  - a. Sufficiency of evidence
  - b. Reliability of evidence
  - c. Relevance of evidence
  - d. Supporting documentation
11. Redirecting efforts if serious or unusual problems arise
12. Fraud, abuse or other illegal acts
13. Investigating the specific incident
  - a. Reports, videos recreating the scene
  - b. Judging witness credibility

## APPENDIX A- continued

- 14. Monitoring reports
  - a. What to report
  - b. Reporting the problem
    - 1. What was found
    - 2. What criteria was used
    - 3. What is the effect
  - c. Contractor's noteworthy accomplishments
    - 1. Significant solution/progress in dealing with past problems
    - 2. New program ideas
  - d. Style of the report
- 15. Corrective actions
  - a. Whose call is it
  - b. Identifying steps and sub-steps to correct the problem
  - c. Determining time frames
  - d. Approval of plan
  - e. Liquidated damages
  - f. Termination
- 16. Negotiation skills
  - a. Reaching agreement without damaging the parties' relationship
  - b. Types of negotiation
    - 1. Bargaining over position
    - 2. Interest bargaining

## APPENDIX B

### *HEALTH CARE APPRAISALS*

Audit Frequency: Quarterly

Monitor: \_\_\_\_\_

**Contract Section: 5.4.13****ACA: 3ALDF-4E-21 & 22****Policy: 13-16.5B**

Date: \_\_\_\_\_

No. of Material Deficiencies: \_\_\_\_\_

Date of Last Audit: \_\_\_\_\_

No. of Material Deficiencies Last Audit: \_\_\_\_\_

Number of Inmate Files Reviewed: \_\_\_\_\_ (min. of 15 with appraisals in last 30 days)

Number of Appraisals Observed: \_\_\_\_\_ (minimum 2)

|  | Yes   | No    | Comments |
|--|-------|-------|----------|
| Information recorded in uniform manner   | _____ | _____ | _____    |
| Hands-on portions performed by registered nurse, physician, nurse practitioner, or physician's assistant | _____ | _____ | _____    |
| Health history and vital signs collected by qualified health personnel <sup>20</sup>                     | _____ | _____ | _____    |
| Appraisals completed within 14 days of arrival   | _____ | _____ | _____    |

---

<sup>20</sup>Person who by virtue of education, credentials and experience is permitted by law to perform tasks in question.



**APPENDIX B - continued**

|  | Yes   | No    | Comments |
|--|-------|-------|----------|
| Data collected to supplement intake screening:   |       |       |          |
| Medical  | _____ | _____ | _____    |
| Mental   | _____ | _____ | _____    |
| Immunizations  | _____ | _____ | _____    |
| Were substance abuse problems identified   | _____ | _____ | _____    |
| No. of Inmates with substance abuse problems:  | _____ |       |          |
| How does this compare to last review:  | _____ |       |          |
| Was needs assessment performed   | _____ | _____ |          |
| Was medical examination performed  | _____ | _____ |          |
| Was individualized treatment plan developed<br>for inmates with substance abuse or mental<br>health problems | _____ | _____ |          |
| Was individualized treatment plan implemented  | _____ | _____ |          |
| Tests Conducted:   |       |       |          |
| Sexually transmitted diseases  | _____ | _____ |          |
| Number of inmates with STD:  | _____ |       |          |
| Compare to last review:  | _____ |       |          |
| Was treatment ordered:   | _____ | _____ |          |
| Tuberculosis (Mantoux Skin Test)   | _____ | _____ |          |
| If TB positive, was chest x-ray scheduled  | _____ | _____ |          |

**APPENDIX B - continued**

|  | <b>Yes</b> | <b>No</b> | <b>Comments</b> |
|--|------------|-----------|-----------------|
| Where tests were positive, were referrals made   | _____      | _____     | _____           |
| No. of Inmates with positive TB test   | _____      |           |                 |
| Compare to last review:_____   |            |           |                 |
| Were vital statistics obtained   | _____      | _____     |                 |
| Were appropriate housing, job assignments, &<br>program participation recommendations made | _____      | _____     |                 |
| Did physician/qualified health personnel review results                                    | _____      | _____     |                 |
| Comments & Significant Accomplishments in this Area:                                       |            |           |                 |
| _____  |            |           |                 |
| _____  |            |           |                 |

## APPENDIX C

### ***VISITATION***

Frequency: Quarterly

Monitor: \_\_\_\_\_

**Contract: 5.4.13****ACA: 3ALDF-5D10 thru 5D-16****Policy & Procedures:**

Date: \_\_\_\_\_

No. of Material Deficiencies: \_\_\_\_\_

Date of Last Audit: \_\_\_\_\_

No. of Material Deficiencies Last Audit: \_\_\_\_\_

Observation Time: \_\_\_\_\_ to \_\_\_\_\_ (No less than one hour)

***All Visitors*****Yes****No**

Picture identification was required

\_\_\_\_\_

\_\_\_\_\_

Visitor's unauthorized property place in secure storage

\_\_\_\_\_

\_\_\_\_\_

Facility visitor identification issued

\_\_\_\_\_

\_\_\_\_\_

Facility visitor identification collected

\_\_\_\_\_

\_\_\_\_\_

Adult Visitors Of Juvenile Inmates

\_\_\_\_\_

\_\_\_\_\_

Proof of parenthood or legal guardian status obtained

\_\_\_\_\_

\_\_\_\_\_

**Minor Visitors**

Accompanied by adult family member

\_\_\_\_\_

\_\_\_\_\_

## APPENDIX C-continued

### *Searches*

|   | <b>Yes</b> | <b>No</b> |
|---|------------|-----------|
| Notice posted in lobby/parking that introduction of contraband is a felony and that searches of vehicles and persons may be conducted | _____      | _____     |

### *Visual Searches*

|                                 |       |       |
|---------------------------------|-------|-------|
| Detection Devices Used Properly | _____ | _____ |
|---------------------------------|-------|-------|

|                   |       |       |
|-------------------|-------|-------|
| Identify Devices: | _____ | _____ |
|-------------------|-------|-------|

|                          | <b>Yes</b> | <b>No</b> |
|--------------------------|------------|-----------|
| <i>Physical Searches</i> |            |           |

|                          |       |       |
|--------------------------|-------|-------|
| Frisk searches conducted | _____ | _____ |
|--------------------------|-------|-------|

|   |       |       |
|---|-------|-------|
| Officer and visitor searched were of same sex | _____ | _____ |
|---|-------|-------|

|  |       |       |
|--|-------|-------|
| Strip Searches - none conducted per policy | _____ | _____ |
|--|-------|-------|

|                   |       |       |
|-------------------|-------|-------|
| Contraband Found: | _____ | _____ |
|-------------------|-------|-------|

|                 |       |       |
|-----------------|-------|-------|
| List Contraband | _____ | _____ |
|-----------------|-------|-------|

|                                       | <b>Yes</b> | <b>No</b> |
|---------------------------------------|------------|-----------|
| <i>Inmate/Staff/Visitor Relations</i> |            |           |

|   |       |       |
|---|-------|-------|
| Staff treated all visitors professionally <sup>21</sup> | _____ | _____ |
|---|-------|-------|

## APPENDIX C-continued

| <i><b>Inmate/Staff/Visitor Relations</b></i>  | <b>Yes</b> | <b>No</b> |
|---|------------|-----------|
| Delays in processing visitors and/or uniting visitors and inmates were not excessive (anything more than ____ minutes from arrival to start of visit is considered excessive) | _____      | _____     |
| Inmates treated professionally <sup>21</sup> in presence of visitors  | _____      | _____     |
| <i><b>Unusual Occurrences</b></i>   |            |           |
| Visit Denied (note reason in comment section)   | _____      | _____     |
| Visit Terminated (note reason in comment section)   | _____      | _____     |
| Reasons conform to policy   | _____      | _____     |
| Denial/termination handled professionally <sup>21</sup>   | _____      | _____     |
| Visitor notified of appeal rights   | _____      | _____     |
| <i><b>Visitors Log</b></i>  |            |           |
| Contains name, address & relation to inmate   | _____      | _____     |
| Comments & Significant Accomplishments in this Area   |            |           |
| _____   |            |           |
| _____   |            |           |
| _____   |            |           |
| _____   |            |           |

<sup>21</sup>“Professionally” means officer followed policy, explained the reasons for the action being taken to the person involved, did not speak or act in a sarcastic, angry, vulgar or rude manner; but rather acted in a courteous and conscientious manner.

## Monitoring Manual Questionnaire

Name of primary contact person completing the survey:

Contact person:

Title:

Phone:

Email:

We house state inmates in privately operated facilities:

|                 |            |           |
|-----------------|------------|-----------|
| a) In our state | <b>Yes</b> | <b>No</b> |
| b) Out of State | <b>Yes</b> | <b>No</b> |

|  |            |           |
|--|------------|-----------|
| Privately operated facilities in our state house inmates from other states | <b>Yes</b> | <b>No</b> |
|--|------------|-----------|

*If you answered “no” to all of the above questions, please begin at Section B.*

*If you answered “yes” to any of the above questions, please continue.*

### A. Monitors

1. In-state facilities are monitored mainly using **onsite** / **offsite** monitors. (Circle one)

1a. What are the pros and cons of using this method?

---

---

---

---

2. How many monitors do you have per 500 inmates? \_\_\_\_\_

3. Out of state inmate contracts are monitored using **onsite** / **offsite** monitors. (Circle one)

3a. What are the pros and cons of using this method?

---

---

---

---

4. Do you monitor facilities housing only non-state inmates? **Yes** **No**

4a. What authority do you have for this monitoring? (Please enclose copy)

---

---

---

5. Is monitoring as comprehensive as it would be if your inmates were housed at the facility? **Yes** **No**

*If you did **not** answer Section A, please answer the following questions in relation to any component contracting with private providers (i.e. food services, medical services, etc).*

*If you did answer Section A, please answer the following questions in relation to your privately operated facilities.*

B. Method(s) used in monitoring:

1. Review reports, files, invoices, etc. **Yes** **No**

2. Direct Observation **Yes** **No**

3. Discussion with managers **Yes** **No**

4. Inmate/staff interviews **Yes** **No**

5. Comparison with other facilities  
(e.g. employee turnover rates; escapes) **Yes** **No**

6. Use of Audit checklists **Yes** **No**

Of these, which is the best measure of performance? Why?

---

---

---

C. Do you use contract monitors? **Yes** **No**

1. What are the pros and cons of this method?

---

---

---

D. Monitoring Reports

- |   |            |           |
|---|------------|-----------|
| 1. Do your monitors report all problem areas? | <b>Yes</b> | <b>No</b> |
| 2. Do they report only serious problems?      | <b>Yes</b> | <b>No</b> |
| 3. How is a "serious" problem defined?        |            |           |

---

---

E. Does monitor have authority to:

- |   |            |           |
|---|------------|-----------|
| 1. Suggest problem be corrected by contractor | <b>Yes</b> | <b>No</b> |
| 2. Order correction of problem                | <b>Yes</b> | <b>No</b> |
| 3. Recommend damages/termination              | <b>Yes</b> | <b>No</b> |

Any other comments would be appreciated.

---

---

---

---

---

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| Name  | State | Date  |

**Please submit via fax by July 17, 2000 to (860) 704-6420.** All responses will be on a "not for attribution" basis and will not identify the source, unless you indicate you want to be identified.

**Request for documents:**

- Please send a copy of any monitoring statutory provisions employed when monitoring contracts with private firms operating in-state and out-of-state facilities, or operating facilities within your state housing out-of-state inmates;
- job descriptions and pay scales for monitors;
- training curriculums used for training monitors;
- monitoring instruments employed;
- a sample monitoring report.



# Association of State Correctional Administrators

## Private Firm Questionnaire

Name of primary contact person completing the survey:

Contact person: \_\_\_\_\_

Title: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

1. How could the contracting process be improved? (This includes the contractor selection process.)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. What steps can a state take to develop an RFP or other solicitation of services that will elicit the best possible responses from private providers? (Please try to be specific as possible.)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. What are some positive steps a state can take in drafting and negotiating a successful contract?

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Association of State Correctional Administrators

4. Do you prefer competitive or non-competitive approaches to contracting?  
Competitive ☐ Non-competitive ☐
5. Do you prefer contracts that are for building, operating, or building and operating?  
Building ☐ Operating ☐ Building and Operating ☐
6. What is a reasonable amount of time for responding to an RFP? \_\_\_\_\_ (# weeks)
7. How long should the government allow for building and ramping up a facility?  
\_\_\_\_\_ (# months)
8. What type of pricing schemes work best for your company?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. How much flexibility is appropriate in your company's approach to operating a facility? Do you prefer to follow government procedures or be allowed the flexibility to operate following your own procedures?  
Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. To what degree should your company be integrated into the operations of the Department of Corrections? (i.e. training, conferences, intelligence sharing, information systems, etc.)  
Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Association of State Correctional Administrators

11. Are there any aspects of contracting that you think are mutually beneficial to your company and the taxpayer?

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. How could the monitoring process be improved?

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Do you prefer on-site monitors? Yes ☐ No ☐

14. How many monitors are appropriate per 1000 beds? \_\_\_\_\_

15. What is the best way for monitors to bring problems to your attention? Should monitors propose solutions?

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Association of State Correctional Administrators

16. How should disagreements between your company and on-site monitors be resolved?

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

17. What are some positive steps a state can take in monitoring a private firm's performance?

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

18. Other comments/suggestions:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Please submit via fax by October 2, 2000 to (860) 704-6420.  
Thank you for your time and attention.**

# PRIVATIZATION RESOURCES

## REPORTS

Trustee Report on Youngstown (1998)

<http://www.usdoj.gov/ag/youngstown.htm>

Abt Report examining state of, practice, law and research of private prisons with overview of cost, savings and performance.

<http://www.nicic.org/pubs/prisons.htm>

GAO Review - Comparing Privatization vs. Public Prisons.

<http://www.securitymanagement.com/library/000231.html>

## INFORMATION

University of Connecticut's Private Prison Research Site

[www.ucc.uconn.edu/~logan/](http://www.ucc.uconn.edu/~logan/)

National Criminal Justice Reference Service

[www.ncjrs.org](http://www.ncjrs.org)

National Institute of Corrections Information Center

[www.nicic.prg/services/info\\_center](http://www.nicic.prg/services/info_center)

Private Corrections Link

<http://web.crim.ufl.edu/pcp/>

History of Private Prisons

[www.crxs.com/history.html](http://www.crxs.com/history.html)

Bureau of Prisons Home Page

<http://www.bop.gov/>

Private Prison Questions/Answers

[www.rppi.org/prison/index.html](http://www.rppi.org/prison/index.html)

## PRIVATE COMPANIES

Cornell Corrections

[www.cornellcorrections.com](http://www.cornellcorrections.com)

Corrections Corporation of America

[www.correctionscorp.com/](http://www.correctionscorp.com/)

Correctional Services Corporation

<http://www.correctionalservices.com/index2.html>

Correctional Systems, Inc.

<http://www.crxs.com/>

Wackenhut Corrections

<http://www.wackenhut.com/fr-wcc.htm>

***PLEASE NOTE THAT THIS LISTING IS NOT MEANT TO BE COMPREHENSIVE, BUT MEANT TO OFFER VARIOUS VENUES FOR FURTHER INFORMATION ON PRIVATIZATION.***

## STATE/COUNTRY CONTACT INFORMATION

### **Alaska**

Joseph Reeves  
Deputy Director, Administrative Services  
802 3rd Street  
Douglas, AK 99824  
phone: 907-465-3315  
joe\_reeves@correct.state.ak.us

### **Arkansas**

Larry May  
Deputy Director for Operations  
P.O. Box 8707  
Pine Bluff, AR 71611  
870-267-6302; fax 870-267-6304  
Larry.May@mail.state.ar.us

### **Arizona**

Lacey Scott  
Assistant Director, Prison Operations  
Department of Corrections  
1601 West Jefferson, MC 320  
Phoenix, AZ 85007  
602-364-0150; fax 602-364-0550  
lscott@adc.state.az.us

### **Federal Bureau of Prisons**

Mike Janus  
Administrator, Privatization and Special Projects Branch  
Community Corrections and Detention Division  
Federal Bureau of Prisons  
32 First St, NW  
Washington, DC 20534  
202-307-0817  
mjanus@bop.gov

### **California**

Gregory Harding  
Assistant Deputy Director  
Community Correctional Facilities Administration  
Institutions Division  
California Department of Corrections  
1515 S. Street, Room 212-N  
Sacramento, CA 95814  
916-327-1471; 916-445-69336  
GHarding@parolehq.corr.ca.gov

### **California**

Donald Rex  
Senior Management Auditor  
California Department of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
916-445-0374; fax 916-358-2499  
drex@evalcomp.corr.ca.gov

### **Canada**

Brian Low  
Executive Lead-Alternative Service Delivery  
Ministry of Correctional Services  
Province of Ontario  
25 Grosvenor Street, 17th floor  
Toronto, Ontario CANADA M7A1Y6  
416-327-0470; fax 416-327-1817  
Brian.Low@jus.gov.on.ca

### **Colorado**

Lou Archuleta  
Director, Private Prisons  
Department of Corrections  
2862 S. Circle Drive, Suite 400  
Colorado Springs, CO 80906-4195  
719-226-4930  
lou.archuleta@doc.state.co.us

### **Connecticut**

Susan Savage  
Director, Research  
Department of Correction  
24 Wolcott Hill Road  
Wethersfield, CT 06109-1152  
860-692-7807; 860-692-7586  
susan.savage@po.state.ct.us

### **Delaware**

Terence Martin  
Deputy Bureau Chief  
Delaware Department of Correction  
Bureau of Management Services  
245 Mc Kee Road  
Dover, DE 19904  
302-739-5601 Ext. 244  
tmartin@state.de.us

### **Hawaii**

Marian Tsuji  
Deputy Director, Corrections  
Department of Public Safety  
919 Ala Moana Blvd., 4th Floor  
Honolulu, HI 96814  
808-587-1340; fax 808-587-1282  
metsuji@aloha.net

### **Iowa**

Michael Savala  
Assistant Director  
Iowa Department of Corrections  
420 Watson Powell Jr. Way  
Des Moines, IA 50309  
515-242-5715; fax 515-281-7345  
michael.savala@doc.state.ia.us

## STATE/COUNTRY CONTACT INFORMATION

### **Idaho**

Michael Johnson  
Administrator, Institutional Services  
Department of Corrections  
1299 N. Orchard Street, Suite 110  
Boise, ID 83706  
208-658-2137; fax 208-327-7458  
mjohnso@corr.state.id.us

### **Kansas**

Fred Phelps  
Corrections Manager II  
Department of Corrections  
900 SW Jackson, 4th floor  
Topeka, KS 66612-1284  
785-296-6534/785-296-0759  
fredp@kdoc.dc.state.ks.us

### **Kentucky**

David Johnson  
Branch Manager, Private Prisons  
Department of Corrections  
P.O. Box 2400  
Frankfort, KY 40602  
502-564-2220 Ext. 288; 502-564-3486  
davidg.johnson@mail.state.ky.us

### **Louisiana**

Melissa Cook  
Executive Management Officer  
Department of Public Safety and Corrections  
P.O. Box 94304, Capitol Station  
Baton Rouge, LA 70804-9304  
225-342-6956

### **Massachusetts**

John Noonan  
Director, Department of Corrections Health Services  
45 Hospital Road, P.O. 317  
Medfield, MA 02052  
617-727-8528 Ext. 130; fax 617-727-8569

### **Maryland**

Myles Carpeneto  
Director of Procurement Services  
Department of Public Safety & Correctional Services  
300 East Joppa Road, Suite 1000  
Baltimore, MD 21286  
410-339-5015; fax 410-339-4240  
carpenmj@ns1.dpscs.state.md.us

### **Michigan**

Marsha Foresman  
MI Department of Corrections  
P.O. Box 30003  
Lansing, MI 48909  
517-373-3680; fax 517-373-6883  
FORESMMB@State.mi.us

### **Missouri**

Ed Ambler  
Contract Coordinator, Contract Management Unit  
Department of Corrections  
2729 Plaza Drive  
Jefferson City, MO 65109  
573-526-6494

### **Nebraska**

Steven King  
Planning & Research Manager  
Nebraska Dept. of Correctional Services  
P.O. Box 94661  
Lincoln, NE 68509  
402-479-5767; fax 402-479-5623  
sking@dcs.state.ne.us

### **New Mexico**

Elizabeth Savage  
Inspector General  
Department of Corrections  
P.O. Box 27116  
Santa Fe, NM 87502-0116  
505-827-8633; fax 505-827-8367  
elizabeth.savage@state.nm.us

### **Oklahoma**

Dennis Cunningham, Private Prison Administrator  
Private Prison Administrators  
2200 N. Classen, Suite 1200  
Oklahoma City, OK 73106  
405-962-6080; fax 405-962-6089  
dennis.cunningham@doc.state.ok.us

### **Oregon**

Brian J. Bemus  
Administrator, Classification and Transfer Unit  
Oregon Department of Corrections  
2575 Center St, NE  
Salem, OR 97310  
503-378-6186 Ext. 225; fax 503-373-7621  
Brian.J.Bemus@doc.state.or.us

## STATE/COUNTRY CONTACT INFORMATION

### **Pennsylvania**

Tim Ringler  
Chief, Div. of Fiscal Mgmt.  
Department of Corrections  
PO Box 598  
Camp Hill, PA 17001  
717-975-4896; fax 717-975-2242  
tringler@state.pa.us

### **Rhode Island**

Richard Frechette  
Associate Director, Financial Resources  
RI Department of Corrections  
40 Howard Ave.  
Cranston, RI 02920  
401-462-2555; fax 401-462-3951  
rfrechette@doc.state.ri.us

### **Tennessee**

Debra Inglis  
General Counsel  
TN Department of Correction  
25 th Floor, Wm. R. Snodgrass Building  
213 Eighth Avenue, N.  
Nashville, TN 37243-0465  
615-741-3087; fax 615-741-9280  
dinglis@mail.state.tn.us

### **Tennessee**

Sendy Parker  
Assistant to the Deputy Commissioner  
TN Department of Correction  
320 6th Avenue, N.  
Nashville, TN 37243-0465  
615-741-1000 Ext. 4004; fax 615-532-8281  
sparker@mail.state.tn.us

### **Texas**

Tom Baker  
Director, State Jail Division  
Department of Criminal Justice  
P.O. Box 13084  
Austin TX 78711  
512-463-5089  
Tom.Baker@tdcj.state.tx.us

### **Utah**

Craig Balls  
Correctional Administrator 1  
Utah Department of Corrections  
Utah State Prison  
14425 South Bitterbush Lane  
Draper, UT 84020  
801-576-7877; fax 801-576-7878  
crusp2.cballs@state.ut.us

### **Utah**

Larry Haefeli  
Corrections Assistant Director  
Utah Department of Corrections  
6100 South Fashion Blvd.  
Murray, UT 84107  
801-265-5579; fax 801-265-5726  
lhaefeli@udc.state.ut.us

### **Washington**

Jim Thatcher  
Chief, Classification and Treatment  
Office of Correctional Operations  
Washington Department of Corrections  
360-753-1598; fax 360-664-8754  
jethatcher@doc1.wa.gov

### **Wisconsin**

Dick Verhagen  
Administrator, Division of Adult Institutions  
Department of Corrections  
P.O. Box 7925  
Madison, WI 53707-7925  
608-266-6604  
Richard.Verhagen@doc.state.wi.us

### **Wisconsin**

Jeff Wydeven  
Contract Administrator  
Department of Correction  
149 East Wilson Street  
P.O. Box 7925  
Madison, WI 53707-7925  
608-266-8993  
Jeffrey.Wydeven@doc.state.wi.us

### **West Virginia**

Kathy Lucas  
Corrections Program Manager  
Mount Olive Correctional Complex  
1 Mountainside way  
Mount Olive, WV 25185  
304-442-7213 Ext. 203; fax 304-442-7225  
Klucas1@mail.wvnet.edu